



**FOLEY
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ATTORNEYS AT LAW

June 10, 2005

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By Hand

Mary L. Cottrell
Secretary
Department of Telecommunications & Energy
One South Station
Boston, MA 02110

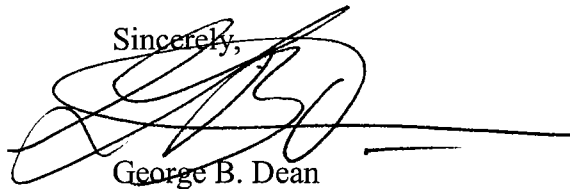
Re: Cambridge Electric Light Company and Commonwealth Electric
Company, D.T.E. 04-114

Dear Secretary Cottrell:

Enclosed for filing please find the original and seven (7) copies of Late-Filed
Petition to Intervene of The Energy Consortium in the above reference proceeding. I
have also enclosed a certificate of service.

Thank you for your attention in this matter and please call me if you have any
questions or I can provide any additional information about this filing.

Sincerely,



George B. Dean

Enclosures

cc: Robert N. Werlin
Colleen McConnell
Shaela McNulty Collins, Hearing Officer

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS
AND ENERGY**

Cambridge Electric Light Company)
Commonwealth Electric Company)
d/b/a NSTAR Electric)
2003 and 2004 Reconciliation Filings)

**D.T.E. 03-118
D.T.E. 04-114**

**THE ENERGY CONSORTIUM'S LATE-FILED
PETITION TO INTERVENE**

Pursuant to 220 C.M.R. §§ 1.01(4) and 1.03, The Energy Consortium ("TEC") hereby petitions for leave to intervene as a full-party intervenor in the above-referenced proceedings now pending before the Department of Telecommunications and Energy ("Department") involving the 2003 and 2004 Transition Cost Reconciliation Filings by Cambridge Electric Light Company and Commonwealth Electric Company. TEC's motion to intervene in this proceeding was triggered by the recent disclosure that NSTAR Electric has double counted and will double collect from its customers \$10 million in "transmission costs" during the period 1998 through 2005: \$3 million from the customers of Cambridge Electric Light Company and \$7 million from the customers of Commonwealth Electric Company. In support of its Petition, TEC states as follows:

1. TEC is a non-profit association of large commercial, industrial, and institutional energy users that own and operate facilities in Massachusetts. TEC's offices are located at 24 Hastings Road, Lexington, MA 02421-6807.

2. TEC members served by either Cambridge Electric Light Company or Commonwealth Electric Company, both of which now operate under the name NSTAR Electric (collectively, “NSTAR Electric” or “NSTAR Electric Companies”), include the following: Acushnet Company, Harvard University, Massachusetts Institute of Technology, Polaroid Corporation, and the Whitehead Institute. TEC has intervened in numerous prior proceedings before the Department.
3. On December 7, 2004, the NSTAR Electric Companies filed with the Department their 2004 Transition Cost Reconciliation Filing, which filing included reconciliations of their respective transition, transmission, and power service costs and revenues as well as new charges and tariffs to take effect on January 1, 2005.
4. In an order dated December 29, 2004, the Department allowed the proposed tariffs to take effect on January 1, 2005 and instituted the instant investigation into the NSTAR Electric Companies’ filing.
5. In an order dated January 14, 2005, the Department granted a joint motion of the NSTAR Electric Companies and the Office of the Attorney General and consolidated the instant investigation with the NSTAR Electric Companies’ 2003 Transition Cost Reconciliation Filing, which was filed on December 3, 2003, docketed as D.T.E. 03-118, and in which evidentiary hearings had then not yet been held.
5. On February 23, 2005, the NSTAR Electric Companies filed with the Department “supplemental” testimony and schedules to update through December 31, 2004, the information in the December 7, 2004, filing.

6. In an order dated February 24, 2005, the Department scheduled a public hearing in this matter on March 15, 2005 and directed those interested in intervening in this proceeding to file written motions to leave to intervene no later than the close of business on March 11, 2005.
7. On March 16, 2005, the Hearing Officer assigned to this matter established a procedural schedule that specified April 8 and 22, 2005, respectively, as the deadlines for discovery requests and responses and June 2 as the date for evidentiary hearings.
8. In a response dated April 15, 2005 to an information request propounded by the Office of the Attorney General, NSTAR Electric Companies indicated that certain “Retail Schedule and Dispatch” costs were include twice in the calculation of their respective Transmission Adjustment Charges each year from 1998 through 2005. The “double collection” amounts to \$960,000 and \$400,000 in 2005 and totaled \$6,089,00 and \$2,512,000 during 1998 through 2004 for Commonwealth Electric Company and Cambridge Electric Light Company, respectively.
9. In a letter dated May 16, 2005, NSTAR Electric notified the Department that certain employees had begun a strike and requested that the procedural schedule in this proceeding be suspended pending the conclusion of the work stoppage. TEC understands that a new procedural schedule has not yet been proposed or adopted.
10. In conducting adjudicatory hearings, the Department may “allow any person showing that he may substantially and specifically be affected by the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any limited purpose” as the Department may order. *See* G.L. c. 30A section 10, cl. (4); *see also* 220 CMR 1.03(1)(b).

11. TEC members that are customers of the NSTAR Electric Companies will be substantially and specifically affected by this proceeding because:
 - a. TEC's members served by NSTAR Electric Companies are significant energy users and therefore are billed and pay significant sums as transition and transmission charges to NSTAR Electric Companies.
 - b. In this proceeding, the Department will investigate and make determinations on the appropriate reconciliation of some or all of NSTAR Electric Companies' transition and transmission costs and the appropriate level of transition and transmission charges.
 - c. Unlike the residential and small commercial customers of NSTAR Electric Companies, most transmission adjustment charges billed to and paid by TEC members are based exclusively on measured demand, not energy usage, and therefore the interests of TEC members may not be the same as those of other NSTAR Electric customers in regard to the appropriate resolution of issues concerning transmission charges and transition charges, including the allocation of costs and credits for double charges among such charges.
 - d. Therefore, no other party participating in this proceeding may adequately represent the interests of TEC and its members in the instant matter.
12. TEC has participated in similar D.T.E. proceedings and seeks to participate in this proceeding in order to ensure (a) an accurate reconciliation of NSTAR Electric's transmission costs that eliminates the double collection of costs, and (b) ratemaking

treatment of the amounts of such past double collections that tracks as closely as possible the actual rate impact of the past double charges.

13. Good cause exists to allow TEC's late filed petition for intervention because:
 - a. Prior to becoming aware of the content of NSTAR Electric's response to certain discovery requests propounded in this proceeding by the Office of the Attorney General, TEC was unaware that NSTAR Electric Companies' current and past transmission adjustment charges were calculated in a manner that double counted Retail Schedule and Dispatch Costs. The terms of the relevant NSTAR tariff states: "[U]nder no circumstances shall such charges recover costs which are collected by the Company in some other rate or charge."
 - b. TEC understands that NSTAR Electric Companies have not yet provided completed responses to all discovery questions propounded by the Office of the Attorney General.
 - c. TEC will accept the record as it stands:
 - i. TEC does not request the right to conduct additional discovery;
 - ii. TEC does not intend to present testimony; and
 - iii. TEC will not request any special consideration in the procedural schedule.
 - d. Evidentiary hearings in this proceeding have not begun and, at present, a date for such hearings is not yet scheduled, and TEC's intervention will not delay hearings in, or the resolution of, this case.

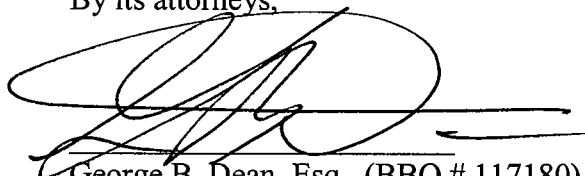
- e. TEC is represented by regulatory counsel who are knowledgeable in the practices and procedures of the Department and who will not impede the efficient consideration of the case.
14. Admission of TEC as a full-party intervenor will not prevent the Department from continuing to conduct the proceeding in a complete, efficient, and orderly fashion.

WHEREFORE, for all of the foregoing reasons, TEC respectfully request that the Department grant this petition for leave to intervene as a full-party intervenor and take such other actions as may be necessary and appropriate to allow such participation. In the event that the Department determines to not grant TEC full intervenor status, TEC requests that it be granted limited intervenor status with the right to receive service of all pleadings, discovery requests, discovery responses, and briefs as well as to file briefs and otherwise participate in this proceeding subject to such conditions as the Department may specify.

Respectful submitted,

The Energy Consortium

By its attorneys,

A large, stylized handwritten signature in black ink, likely belonging to George B. Dean, is written over a horizontal line.

George B. Dean, Esq. (BBO # 117180)
Richard W. Benka, Esq. (BBO # 037320)
Foley Hoag LLP
155 Seaport Boulevard
Boston, Massachusetts 02210-2600

Dated: June 10, 2005

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS
AND ENERGY**

**Cambridge Electric Light Company)
Commonwealth Electric Company)
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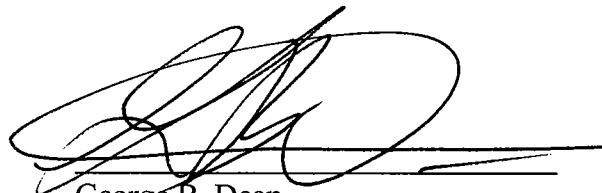
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CERTIFICATE OF SERVICE

I, George B. Dean, attorney for The Energy Consortium, hereby certify that I have served a copy of Late-Filed Petition to Intervene of The Energy Consortium by first-class mail, postage prepaid, to:

Robert N. Werlin, Esquire
Keegan, Werlin LLP
265 Franklin Street
Boston, MA 02110-3113

Colleen McConnell, Esquire
Assistant Attorney General
Office of the Attorney General
One Ashburton Place
Boston, MA 02108



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(617) 832-1219

Dated: June 10, 2005